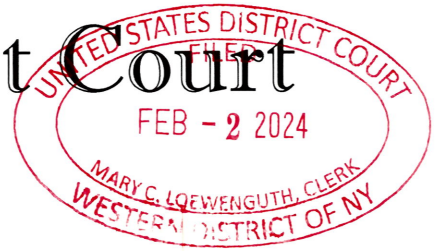


United States District Court

for the
Western District of New York



United States of America

v.

Case No. 24-MJ- 3004

DANIEL DAMON KUHAR

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about February 1, 2024, in the Western District of New York, the defendant, DANIEL DAMON KUHAR, did knowingly and willfully, and for the purpose of issuing a threat and with knowledge that the communications would be viewed as a threat, transmit communications in interstate commerce, that is, a video on the Internet website "Meta," which traveled between the State of New York and the State of California, which contained threats to injure the person of another, in violation of Title 18, United States Code, Section 875(c).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Keith E. Bender

Complainant's signature

Keith Bender
Special Agent
Federal Bureau of Investigation

Printed name and title

Sworn to before me and signed in my presence.

Date: February 2, 2024

Michael J. Roemer

Judge's signature

City and State: Buffalo, New York

HONORABLE MICHAEL J. ROEMER
UNITED STATES MAGISTRATE JUDGE

Printed name and title

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

KEITH E. BENDER, a Special Agent of the Federal Bureau of Investigation,
United States Department of Justice, Buffalo, New York, being duly sworn, and states the
following:

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”), United States Department of Justice. As such, I am an “investigative or law enforcement officer of the United States” within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516.

2. I have served as an FBI Special Agent since June of 2009. During that time, I have participated in investigations involving human, drug, and weapons trafficking, neighborhood-based street gangs, organized crime matters, and violent crimes including investigations that utilized the execution of arrest warrants of persons and search warrants on residences and vehicles. Over the course of those investigations, I have conducted interviews of witnesses and subjects, supervised and handled confidential informants, participated in and supervised physical and electronic surveillance, utilized pen registers and trap and trace devices, executed search and arrest warrants, and conducted consensually recorded telephone

calls between confidential informants and subjects. In addition, I have had the opportunity to work with other FBI Special Agents and other law enforcement agents and officers of varying experience levels. My investigative experience detailed herein, and the experience of other law enforcement agents who are participating in this investigation, serve as the basis for the opinions and conclusions set forth herein.

3. Your Affiant states that this investigation was conducted by FBI Special Agents and other law enforcement personnel assigned to the FBI Buffalo Division – Safe Streets Task Force (“SSTF”), and the City of North Tonawanda Police Department. This affidavit is based upon your affiant’s personal knowledge, information provided by other law enforcement personnel, and evidence obtained during this investigation. It is submitted for the limited purpose of establishing probable cause, and, as such, I have not included details of every aspect of this investigation.

4. As a result of working this case with other Special Agents and Task Force Officers of the FBI, the City of North Tonawanda Police Department (NTPD), and other law enforcement agencies, I am familiar with the circumstances of the offenses described in this Affidavit.

5. Your affiant makes this affidavit in support of a federal criminal complaint charging **KUHAR** with violating Title 18, United States Code, Section 875(c), making threats in or affecting interstate commerce, via a “Meta” (FaceBook) social media account. Based upon the investigation described below, there is probable cause to believe that **KUHAR** has

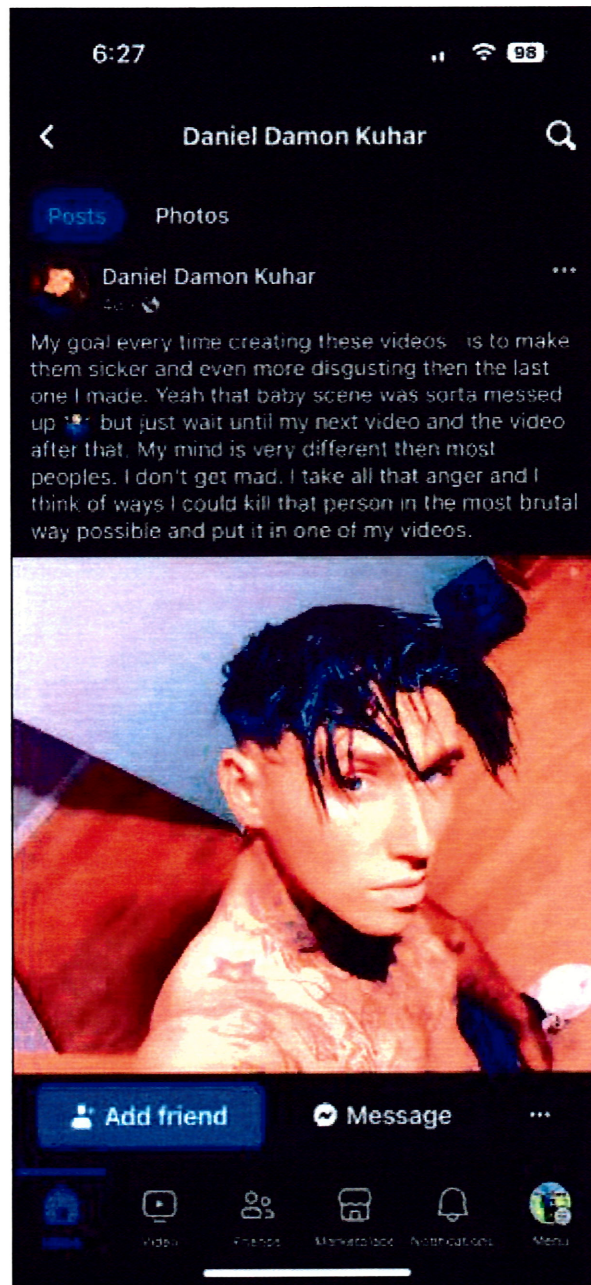
committed or is committing violations of Title 18 United States Code, Section 875(c) (Interstate Communication of a Threat) (hereinafter, the “Enumerated Offense”).

6. I have set forth only the facts that I believe are necessary to establish probable cause for the requested criminal complaint, I have not presented all the facts of this investigation to date. Rather, I have set forth sufficient information to establish probable cause for the requested complaint.

PROBABLE CAUSE

7. On February 2, 2024, the FBI-SSTF was contacted by North Tonawanda Police Department regarding an investigation into the criminal activities of **KUHAR** and specifically, a video posted on February 1, 2024, on a Meta/Facebook account known to be associated with **KUHAR**, which depicts high school students at a dance being shot by an automatic firearm. In an audio track overlayed on the video, an unknown voice asks “Damon where are you?” Damon answers “I am walking into my High School.” The unknown voice says “Don’t do it.” Damon replies “You don’t understand, they ruined my life. Now I’m going to ruin their night”. The video then depicts security camera footage of the shooter entering the school with a firearm during the March 27, 2023, Covenant School mass shooting incident that occurred in Nashville, Tennessee, and resulted in the deaths of three students and three staff members. The video is labeled “Memes to be Murdered By” and ends with a date posted on the screen: “11/26/24”. It should be noted that “Damon” is **KUHAR**’s middle name.

8. On January 28, 2024, **KUHAR** posted on his personal Facebook account “I don’t get mad. I take all that anger and I think of ways I could kill that person in the most brutal way possible and put it in one of my videos.”



LAW ENFORCEMENT ENCOUNTERS

9. On August 4th, 2023, **KUHAR** was suspected by a Niagara County Sheriff's Deputy to be present on the property of St. John's Lutheran Elementary School, located at 6950 Ward Road, Wheatfield, New York. **KUHAR** was not physically encountered.

10. On November 16, 2023, **KUHAR** was interviewed by a Niagara County Sheriff's Deputy after **KUHAR** was encountered on the property of St. John's Lutheran Elementary School, located at 6950 Ward Road, Wheatfield, New York. During this encounter, **KUHAR** was located on the front lawn of the school with a backpack and facemask. **KUHAR** was advised to not be present on the school property during school hours.

11. On October 8, 2023, **KUHAR** was interviewed by members of both North Tonawanda and City of Tonawanda Police Departments after **KUHAR** made comments to a TOPS FRIENDLY MARKETS employee stating that he (**KUHAR**) "has something evil planned".

12. On February 1, 2024, during an interview with Detectives from the North Tonawanda Police Department, **KUHAR** admitted to producing the video described in paragraph 7 and the Facebook post described in paragraph 8. **KUHAR** also admitted to being present on the property of the St. John's Elementary School.

CONCLUSION

13. Based on the facts articulated in this affidavit, I submit that probable cause exists to believe that on or about February 1, 2024, **DANIEL DAMION KUHAR** violated Title 18, United States Code, Section 875(c), making threats in or affecting interstate commerce.

Keith E. Bender

KEITH E. BENDER
Special Agent
Federal Bureau of Investigations

Sworn to telephonically,

this ^{2nd} day of February, 2024.

Michael J. Roemer

HONORABLE MICHAEL J. ROEMER
United States Magistrate Judge